

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KRISTINA GARCIA,

Plaintiff,

v.

CASE NO.: 2:19-cv-11673

Hon. Judge Linda v. Parker

BEAUMONT HEALTH and

Magistrate Judge David Grand

RACHEL LUCA,

Defendants.

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REPLY IN SUPPORT OF PLAINTIFF'S MOTION TO STRIKE
DEFENDANT BEAUMONT HEALTH'S RESPONSE TO PLAINTIFF'S
REVISED MOTION FOR DEFAULT JUDGMENT
AGAINST DEFENDANT LUCA

Plaintiff, by and through her Attorneys, hereby submits her Reply in
support of her Motion To Strike Defendant Beaumont Health's Response

To Plaintiff's Revised Motion For Default Judgment Against Defendant Luca, which was filed on November 24, 2021. (ECF No. 93).

On November 30, 2021, Defendant Beaumont Health filed a Response To Plaintiff's Motion To Strike Defendant Beaumont Health's Response To Plaintiff's Revised Motion For Default Judgment Against Defendant Luca. (ECF No. 97). In its Response, Defendant Beaumont Health takes the position that it is still a party in the case pending before this Court based on Fed. R. Civ. P. 54(b) and its erroneous reading of this Court's October 25, 2021 Opinion And Order Granting Defendant Beaumont Health's Motion For Summary Judgment. (ECF No. 86).

In the October 25, 2021 Opinion And Order Granting Defendant Beaumont Health's Motion For Summary Judgment, this Court stated: "IT IS ORDERED that Defendant Beaumont Health's Motion for Summary Judgment (ECF No. 72) is GRANTED and it is terminated as a party to this action." *Id.* at PageID.1550. As this Court is well aware, a court speaks through its orders. *Omnipoint Holdings, Inc. v. City of Southfield*, 355 F.3d 601, 606 (6th Cir. 2004); *Williamson v. Recovery Ltd. P'ship*, Dkt. Nos. 09-4253 & 09-4255, at *20 (6th Cir. 2012) (Exhibit 1). Nothing in Fed. R. Civ. P. 54 modifies this Court's October 25, 2021 Order because Fed. R. Civ. P. 54 addresses when a judgment is entered for purposes of an appeal of

right.¹ Thus, this Court dismissed Defendant Beaumont Health from this case on October 25, 2021. Finally, Defendant Beaumont Health's contention that entry of default against Defendant Luca will be misused by Plaintiff is based on pure speculation and without merit.

WHEREFORE, for the reasons set forth above and in Plaintiff's Motion To Strike Defendant Beaumont Health's Response To Plaintiff's Revised Motion For Default Judgment Against Defendant Luca, this Court should grant Plaintiff's motion.

Respectfully submitted,

Dated:

/s/ Lisa C. Ward
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¹ In addition, Defendant Beaumont Health's assertion that it is still a party in this case is directly contrary to the statement it made when it submitted its Bill of Costs. (ECF No. 90).

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Defendants.

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PROOF OF SERVICE

I, Marina Garcia, hereby certify that I served a copy of Plaintiff's Reply In Support of Plaintiff's Motion to Strike Defendant Beaumont Health's Response to Plaintiff's Revised Motion for Default Judgment Against Defendant Luca, via the CM/ECF filing system, which gives notice to all parties.

Dated: December 3, 2021

/s/ Marina Garcia
Marina Garcia
Legal Assistant